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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,537	02/24/2005	Hisashi Kobayashi	1716380	7070

7590 03/16/2006

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Chicago, IL 60603

EXAMINER

NASH, BRIAN D

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/525,537

Applicant(s)

KOBAYASHI, HISASHI

Examiner

Brian Nash

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☒ Claim(s) 2, 4 and 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/12/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Examiner's Comments

1. This action is in response to applicant's preliminary amendment received 2/24/2005.

Claims 1-5 are pending.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

3. The drawings in this application are objected to because they are informal. The informal drawings filed in this application are acceptable for examination purposes. When the application is allowed, applicant will be required to submit new formal drawings.

Specification

4. The title of the invention is not descriptive and is therefore objected to. A new title is required that is clearly indicative of the invention to which the claims are directed. The following title is suggested: A MOTOR-DRIVEN STAPLER HAVING A DRIVER AND CLINCHER UNIT THAT VERTICALLY RECIPROCATE.
5. The abstract of the disclosure is objected to because it is in claim format, i.e. it is merely a resubmission of claim 1. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means"

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and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Objections

6. Claims 1 and 4 are objected to because of the following informalities: In claim 1, line 6; the phrase "is vertically reciprocably disposed" is awkwardly worded. The examiner suggests replacing with --is disposed so as to vertically reciprocate--.

In claim 4, the presentation of "...the clincher; a first encoder..." is awkward and confusing. Possibly, applicant intended to claim, "the clincher including;" or "wherein the clincher further comprises;". Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

8... Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by US 6,164,513 to Yoshie. Yoshie discloses the same invention as claimed:

With respect to claim 1, a stapler comprising a driver unit (11) and driver (24), a clincher unit (100) having a clincher base (101) and clincher mechanism (138) to clinch leg portions of

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the staples, the driver unit being vertically separated from the clincher unit (see Fig. 1); the clincher base reciprocates vertically and the sheets are inserted and clamped between the clincher base and driver unit with the clincher base is reciprocated (see column 10, lines 30-35); a first driving motor (16) for operating the driver unit and a second driving motor (307) for operating the clincher mechanism.

With respect to claim 3, the clincher unit (100) is disposed above the driver unit (11) and wherein the clincher moves downwardly to contact the sheets on an upper face of the driver unit (see Fig. 1).

9. Claims 1 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2003/0066858 to Holgersson. Holgersson shows the same invention as claimed:

With respect to claim 1, a stapler comprising a driver unit having a driver (13), a clincher unit having a clincher base (not numbered) and clincher mechanism (8) to clinch leg portions of the staples (see Fig. 1), the driver unit being vertically separated from the clincher unit; the clincher unit and base reciprocate vertically and the sheets (17) are inserted and clamped between the clincher base and driver unit with the clincher base is reciprocated (see Fig. 2); a first driving motor (2) for operating the stapler driver and a second driving motor (3) for operating the clincher mechanism.

With respect to claim 3, the clincher unit is disposed above the driver unit and wherein the clincher moves downwardly to contact the sheets on an upper face of the driver unit (see Fig. 2).

Allowable Subject Matter

10. Claims 2, 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to anticipate or show in combination a motor driven stapler having vertically separated driver and clincher units, each with separate motors for reciprocating vertically to clamp sheets therein; and wherein the second motor is stopped after driving the clincher base to clamp the sheets, thereafter the first driving motor drives the stapler driver unit to drive the staples through the sheets and is then stopped, thereafter the second driving motor operates the clincher to clinch the leg portions of the staples that have passed the sheets, the clincher base is returned and the second motor is stopped, and thereafter the first driving motor drives the stapler driver unit to return to its initial position and is then stopped.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Haramiishi, Kanai et al, Kitamura, Yamaguchi, Udagawa et al, Braun et al and Yoshie et al are cited to show related references.


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Nash whose telephone number is 571-272-4465. The examiner can normally be reached on Monday – Thursday from 8 a.m. to 6 p.m.

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14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached at 571-272-4467. The official fax number for this Group is: 571-273-8300

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

3/13/2006



Brian Nash
Patent Examiner
Art Unit 3721